## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA,

:

V •

: Case No. 2:13 CR 14-3

:

JAMES NASTRI

## ORDER

The Report and Recommendation of the United States Magistrate Judge was filed September 24, 2018. Defendant filed his objections on November 6, 2018.

After careful review of the file and the Magistrate

Judge's Report and Recommendation, this Court ADOPTS the

Magistrate Judge's recommendations in full for the reasons

stated in the Report.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); Perez-Rubio v. Wyckoff, 718 F. Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id*.

The motion under 28 U.S.C. §2255 to vacate, set aside or correct a sentence(Doc. 441) is DENIED. The request for appointed counsel (Doc. 441 at 17; Doc. 450 at 6) is DENIED as moot.

Pursuant to Fed. R. App. P. 22(b), a certificate of

appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right.

Moreover, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. Lucidore v, New York State Div. Of Parole, 209 F.3d 107, 112 (2d Cir. 2000).

It is further certified that any appeal would not be taken in good faith, and permission to proceed in forma pauperis is therefore DENIED. See 28 U.S.C. \$ 1915(a)(3).

THIS CASE IS CLOSED.

Dated at Burlington, in the District of Vermont, this 10th day of December, 2018.

/s/ William K. Sessions III
William K. Sessions III
U.S. District Court Judge